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January 4, 2021

VIA ECF

The Honorable Ramon E. Reyes, U.S.M.J.
United States District Court for the Eastern
District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Round Hill Music, LLC et ano. v. TuneCore, Inc., et al., Case No. 20-cv-3466 (DG)
(RER); Joint Letter Regarding Scheduling Conference

Dear Judge Reyes:

Our firm represents defendants TuneCore, Inc.; Believe Digital Holdings Inc.; and Believe SAS (collectively, "Defendants") in the above-referenced action. We write jointly with counsel for plaintiffs Round Hill Music, LLC and Round Hill Music LP (collectively, "Plaintiffs") regarding the parties' proposed Case Management Plan, submitted herewith, and the upcoming conference on January 7, 2021.

The parties met and conferred on December 21, 2020 and agreed to the dates referenced in the enclosed plan, as well as to collaborate in good faith on a two-level protective order to be submitted to the Court, and on ESI protocols. The parties will approach the Court with any dispute that they have been unable to resolve. The parties also agree that an early settlement conference with Your Honor in February or early March, following some preliminary discovery, is appropriate. The parties respectfully request a date on Your Honor's calendar for the conference.

At Thursday's conference, Defendants wish to discuss possible bifurcation of the discovery schedule. Defendants have asserted a variety of defenses as to liability and believe that in light of the fact that damages discovery (even where statutory damages are claimed) is burdensome and documents and witnesses on liability and damages are unlikely to overlap significantly if at all, a period for liability discovery followed by a summary judgment motion will result in a substantial reduction in cost. Plaintiffs contend that discovery should be open for all purposes for matters that are relevant to the subject matter of this action as opposed to any sequencing or stay of discovery and are of the view that there is a high likelihood of overlap in the discovery needs relating to liability and damages, and that bifurcation will lead to expense and delay.



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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "EML", with a long horizontal flourish extending to the right.

Eleanor M. Lackman

EML

Encl.

cc: All counsel of record (via ECF)

UNITES STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

ROUND HILL MUSIC, LLC and ROUND HILL
MUSIC LP

Plaintiffs,

-against-

TUNECORE, INC., BELIEVE DIGITAL
HOLDINGS, INC., and BELIEVE SAS,

Defendant,

-----X

CASE MANAGEMENT PLAN

Case No: 1:20-cv-3466-NGG-RER

Upon consent of the parties, it is hereby ORDERED as follows:

1. Defendants shall answer or otherwise move with respect to the complaint by November 30, 2020
2. No additional parties may be joined after April 16, 2021
3. No amendment of the pleadings will be permitted after April 16, 2021.
4. Date for completion of automatic disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure, if not yet made: January 21, 2021
5. The parties shall make required Rule 26(a)(2) disclosures with respect to:
 - (a) expert witnesses on or before July 1, 2021.
 - (b) rebuttal expert witnesses on or before August 19, 2021.
6. All discovery, including depositions of experts, shall be completed on or before October 7, 2021 (Generally, this date must be no later than 6 months after the initial conference).
7. Pre-motion letters regarding proposed dispositive motions must be submitted within one (1) weeks following the close of all discovery and responses are due one week later.
8. Do the parties consent to trial before a magistrate judge pursuant to 28 U.S.C. §636(c)? **(Answer no if any party declines to consent without indicating which party has declined.)**

☐ Yes ☒ No

If parties answer yes, then fill out the AO 85 (Rev. 01/09) Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form. The form can be accessed at the following link:
<http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf>.

9. A Telephone Conference set for _____, to be initiated by
☐ Plaintiff or ☐ Defendant (Check One).

*** (The Court will schedule the conference listed above.)**

10. Status Conference will be held on _____.

*** (The Court will schedule the conference listed above)**

11. A Final Pre-trial Conference will be held on _____.

***(The Court will schedule the conference listed above.)**

This scheduling order may be altered or amended upon a showing of good cause not foreseeable at the date hereof.

Dated: Brooklyn, New York

RAMON E. REYES, JR.
UNITED STATES MAGISTRATE JUDGE

CONSENTED TO:

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